

REMARKS

This responds to the Final Office Action mailed on October 4, 2005.

Claims 1, 8, 14, 18, 22, 24-27, 32, 39, 45 and 49 are amended, claims 5, 7, 12, 23, 36, 38, and 43 are canceled, and claims 53-57 are added; as a result, claims 1-4, 6, 8-11, 13-22, 24-35, 37, 39-42, and 44-57 are now pending in this application.

Claim Objections

Claims 8, 24-27 and 39 were objected to because they were dependent upon canceled claims. Appropriate correction has been made.

§112 Rejection of the Claims

Claim 9 recites the limitation “the system overload condition” in line 7 without sufficient antecedent basis. Claim 8 has been amended to correct the insufficient antecedent basis in claim 9.

New Limitations and Claims

Applicants have added new limitations to existing claims and new claims. Applicants submit that no new matter has been added to the application. Support for these additions may be found on Page 5, line 24 – Page 6, line 15 and on Page 21, line 23 – Page 22, line 10 and throughout the specification and the drawings.

§103 Rejection of the Claims

Claims 1-4, 10-11, 22, 24-35 and 41-42 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pickering et al. (U.S. 6,493,695; hereinafter Pickering) in view of Price (U.S. 6,389,132; hereinafter Price).

Applicants respectfully submit that claims 1-4, 10-11, 22, 24-35 and 41-42 should not be rejected under 35 U.S.C. § 103 for the reason that prior art references when combined do not teach or suggest all of the claim limitations of the independent claims of the present application.

To establish a **prima facie** case of **obviousness**, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the

knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Claim 1 includes the following limitations:

reassigning a first agent from a first task to a second task responsive to the determining the system overloaded condition.

The above limitations are introduced with the present response. Nevertheless, Applicants note that Shaffer et al. (U.S. 6,128,380; hereinafter Shaffer) has been cited in at least one previous Office Action (mailed April 4, 2005) with regard to the "system overload condition" limitation. Shaffer discloses the following:

....if a large amount of calls are related to a change in a co-payment requirement, the system could first train everyone in the medical benefits queue, and later train the rest of the agents. When a queue is overloaded, the system can switch the calls in this skill area to lesser trained people because most questions are likely to be about the new change. If the question is more advanced, these lesser trained agents can transfer the call to a more highly trained medical benefits queue for further handling.

Shaffer Col 6, lines 15-22.

The above quote from Shaffer describes a system that switches calls to lesser trained agents when a queue is overloaded. The system may switch calls to the lesser trained agents because most questions are likely to be about a new change. If the question is more advanced, the lesser trained agents can transfer the call to the more highly trained medical benefits queue.

Claim 1 requires reassigning a first agent from a first task to a second task responsive to determining a system overloaded condition. In contrast, the above quote from Shaffer does not describe reassigning a first agent from a first task to a second task responsive to determining a system overloaded condition. Rather, the above quote from Shaffer describes a system that

switches calls to lesser trained agents in response to a large amount of calls. Clearly, the above quote from Shaffer does not disclose a task that is performed by a lesser trained agent just prior to switching a call to the lesser trained agent. Indeed the above quote from Shaffer does not disclose a reassigning of an agent, much less a reassigning in response to a system overloaded condition.

The above remarks are also applicable with respect to the independent claims 22 and 32.

In addition, if an independent claim is nonobvious under 35 U.S.C. § 103 then, any claim depending therefrom is nonobvious and rejection of claims 2-4, 10-11, 24-31, 33-35 and 41-42 under 35 U.S.C. § 103 is also addressed by the above remarks.

In summary, Pickering in combination with Price in combination with Shaffer does not teach or suggest each and every limitation of claims 1, 22 and 32 as required to support rejections of the independent claims of the present application under 35 U.S.C. § 103.

Claims 6, 8-9, 13-21, 37, 39-40 and 44-52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Pickering et al. in view of Price and in further view of Barkan et al. (U.S. 6,366,575).

Claims 6, 8-9, and 13-21 depend on independent claim 1 and claims 37, 39-40 and 44-52 depend on independent claim 32. If an independent claim is nonobvious under 35 U.S.C. § 103 then, any claim depending therefrom is nonobvious and rejection of claims 6, 8-9, 13-21, 37, 39-40 and 44-52 under 35 U.S.C. § 103 is also addressed by the above remarks.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney 408-278-4042 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

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By their Representatives,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 6 day of February, 2006.

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